

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

THE STATE OF MISSISSIPPI, ex rel.
LYNN FITCH, in her official capacity as
Attorney General of the State of Mississippi,

Plaintiff,

v.

Civil Action No.1:20-cv-168-TBM-RPM

THE PEOPLE’S REPUBLIC OF CHINA,
THE COMMUNIST PARTY OF CHINA,
NATIONAL HEALTH COMMISSION OF
THE PEOPLE’S REPUBLIC OF CHINA,
MINISTRY OF EMERGENCY
MANAGEMENT OF THE PEOPLE’S
REPUBLIC OF CHINA, MINISTRY OF
CIVIL AFFAIRS OF THE PEOPLE’S
REPUBLIC OF CHINA, PEOPLE’S
GOVERNMENT OF HUBEI PROVINCE,
PEOPLE’S GOVERNMENT OF WUHAN
CITY, WUHAN INSTITUTE OF
VIROLOGY, and CHINESE ACADEMY
OF SCIENCES,

Defendants.

MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF
BY THE CHINA SOCIETY OF PRIVATE INTERNATIONAL LAW

COMES NOW, The China Society of Private International Law, by and through counsel,
and respectfully moves for leave to file its *amicus curiae* brief (“*Amicus* Brief”).

1. The China Society of Private International Law (“The Society”) is an academic organization formed under Chinese law and dedicated to the theory and practice of private international law. It is one of the largest academic groups in the world focused on private international law, and its members include law professors, scholars, experts, consultants, and

practicing attorneys. For decades, The Society has dedicated its efforts to the consistent interpretation and application of international law and principles of sovereign immunity. These efforts include publishing “The Model Law of Private International Law” and the annual “Chinese Yearbook of Private International Law and Comparative Law.”

2. The Society is interested in furthering relations between China and the United States, which benefit peoples in both countries economically and otherwise. The Society has been following the instant matter because it has significant implications for the theory and practice of private international law, the interpretation and application of the FSIA and its exceptions to sovereign immunity, and Sino-U.S. relations.

3. In its Complaint, Plaintiff alleges subject-matter jurisdiction under the Foreign Sovereign Immunities Act’s (“FSIA”) “commercial activity” exception to sovereign immunity.

4. To date, no Defendant has appeared in this matter to challenge subject-matter jurisdiction.

5. On July 18, 2023, Plaintiff moved for default judgment against six governmental Defendants. Before ruling on Plaintiff’s motion, the Court must determine whether subject-matter jurisdiction exists. *See Fisher v. Madlock*, No. 6:18CV083, 2022 WL 1233751, at *3 (E.D. Tex. Feb. 16, 2022) (“A court may not enter default judgment if it does not have subject matter jurisdiction.”) (citing *Forsythe v. Saudi Arabian Airlines*, 885 F.2d 285, 288 (5th Cir. 1989)).

6. The Society’s *Amicus* Brief timely addresses points of law that are relevant to the Court’s determination of whether subject-matter jurisdiction exists under the FSIA.

7. The Court has “broad discretion” to accept The Society’s *Amicus* Brief.

8. Without The Society’s *Amicus* Brief, only Plaintiff’s point of view concerning subject-matter jurisdiction will be before the Court.

9. The Society's proposed *Amicus* Brief is attached as Exhibit A.

10. Contemporaneously filed herewith is The Society's Memorandum in Support of Motion for Leave to File *Amicus Curiae* Brief, which is incorporated herein by reference.

11. A proposed order is attached as Exhibit B.

The China Society of Private International Law respectfully requests leave to file its *Amicus Curiae* brief, as well as all other relief the Court may deem appropriate.

Dated: July 25, 2023

Respectfully submitted,

CARROLL BUFKIN, PLLC

/s/ Thomas G. Bufkin

By:

Thomas G. Bufkin

On behalf of,

THE CHINA SOCIETY OF PRIVATE
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CERTIFICATE OF SERVICE

I certify that I have this day filed the above and foregoing document *via* ECF, which automatically serves a copy on all counsel of record.

Dated: July 25, 2023

/s/ Thomas G. Bufkin

THOMAS G. BUFKIN